

# THE NORTH CAROLINA JUDICIAL STANDARDS COMMISSION



## 2012 ANNUAL REPORT

Post Office Box 1122  
Raleigh, North Carolina 27602  
(919) 831-3630

## CONTENTS

	<u>Page</u>
Introduction .....	2
Activities in 2012 .....	2
Five Year Comparative Analysis .....	6
APPENDIX A - Past and Present Members of the Judicial Standards Commission.....	7
APPENDIX B - Supreme Court Opinions Regarding Recommendations from the Judicial Standards Commission .....	8

This report provides statistical data of the activities of the Commission in 2012. For further information please visit the Judicial Standards Commission's web site at:

<http://www.nccourts.org/Courts/CRS/Councils/JudicialStandards/Default.asp>

## INTRODUCTION

The North Carolina Judicial Standards Commission was created in 1973 by virtue of an amendment to Article IV, Section 17 of the Constitution of North Carolina and the enactment of Article 30 of Chapter 7A of the General Statutes. The purpose of the Commission has been repeatedly stated by the Supreme Court, but was first voiced by Justice Exum in *In re Crutchfield*, 289 N.C. 597, 602, 223 S.E.2d 822, 825 (1975):

“[A proceeding before the Judicial Standards Commission] is neither criminal nor civil in nature. It is an inquiry into the conduct of a judicial officer, the purpose of which is not primarily to punish any individual but to maintain due and proper administration of justice in our State's courts, public confidence in its judicial system, and the honor and integrity of its judges.”

The Commission exists as the appropriate agency “for the investigation and resolution of inquiries concerning the qualifications or conduct of any justice or judge of the General Court of Justice.” N.C.G.S. §7A-374.1. It receives and investigates complaints of judicial misconduct or disability, institutes disciplinary proceedings, conducts hearings, and recommends appropriate disciplinary action to the North Carolina Supreme Court or the North Carolina Court of Appeals. The Commission itself can neither censure nor remove. It functions to aid in determining whether a justice or judge is unfit or unsuitable, and it is for the court to actually assess the disciplinary sanctions provided in N.C.G.S. §7A-376. *In re Nowell*, 293 N.C. 235, 237 S.E.2d 246 (1977).

The Commission also provides formal advisory opinions to judges and justices in response to written requests. The executive director and Commission counsel provide informal advisory opinions upon request and participate in new judge training and continuing judicial education.

The membership of the Commission consists of one Court of Appeals judge, who serves as the chairperson, two superior court judges, and two district court judges, each appointed by the Chief Justice of the Supreme Court; four members of the Bar, elected by the Council of The North Carolina State Bar; and four citizens who are neither judges, active or retired, nor attorneys, two appointed by the Governor, one appointed by the Speaker of the North Carolina House of Representatives and one appointed by the President Pro Tempore of the North Carolina Senate.

## ACTIVITIES IN 2012

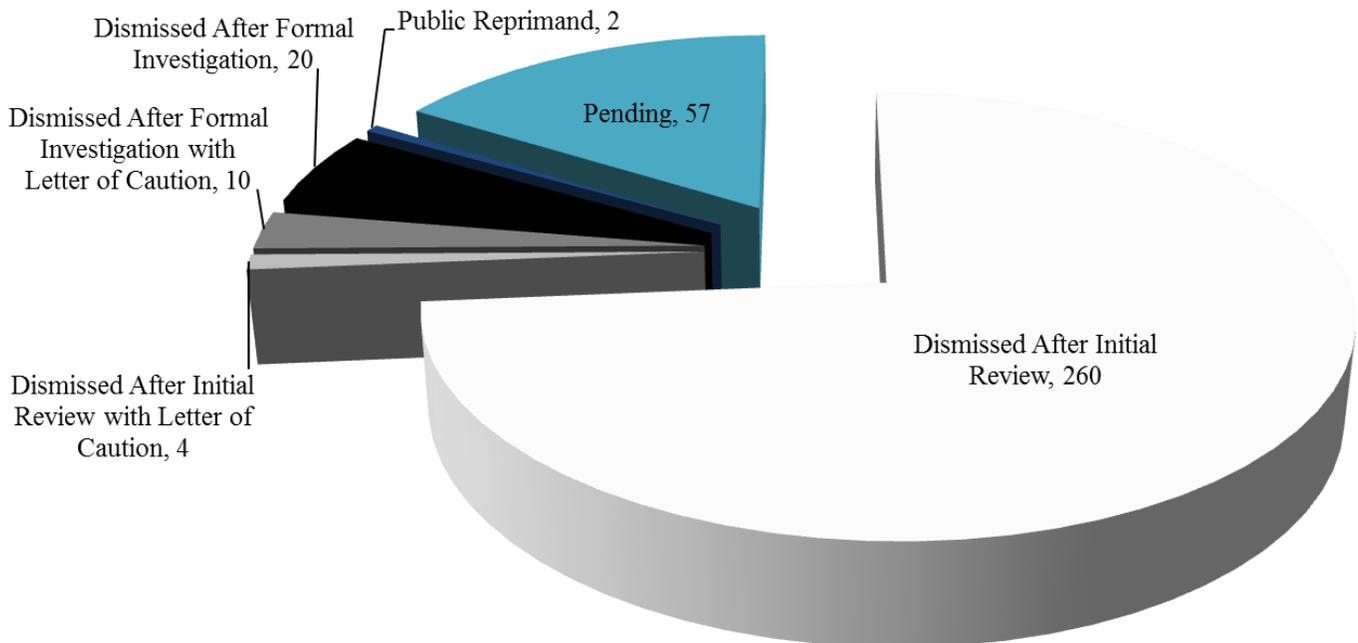
Inquiries concerning the conduct of any justice or judge of the General Court of Justice are initiated by written complaints from members of the public or opened by the Commission acting on its own motion. 41 such complaints were pending at the beginning of 2012: 33 awaiting initial review or receipt of additional information and 8 under formal investigation. During the year, 312 new complaints were filed or initiated by the Commission on its own motion. Formal investigations were ordered in 30 complaints. Two public reprimands were ordered regarding 2 complaints. The Commission did not find probable cause to initiate any formal disciplinary proceedings in 2012. As indicated below, 57 matters were left pending at the end of 2012: 50 complaints awaiting initial review or the receipt of additional information and 7 complaints under formal investigation.

### CASELOAD 2012

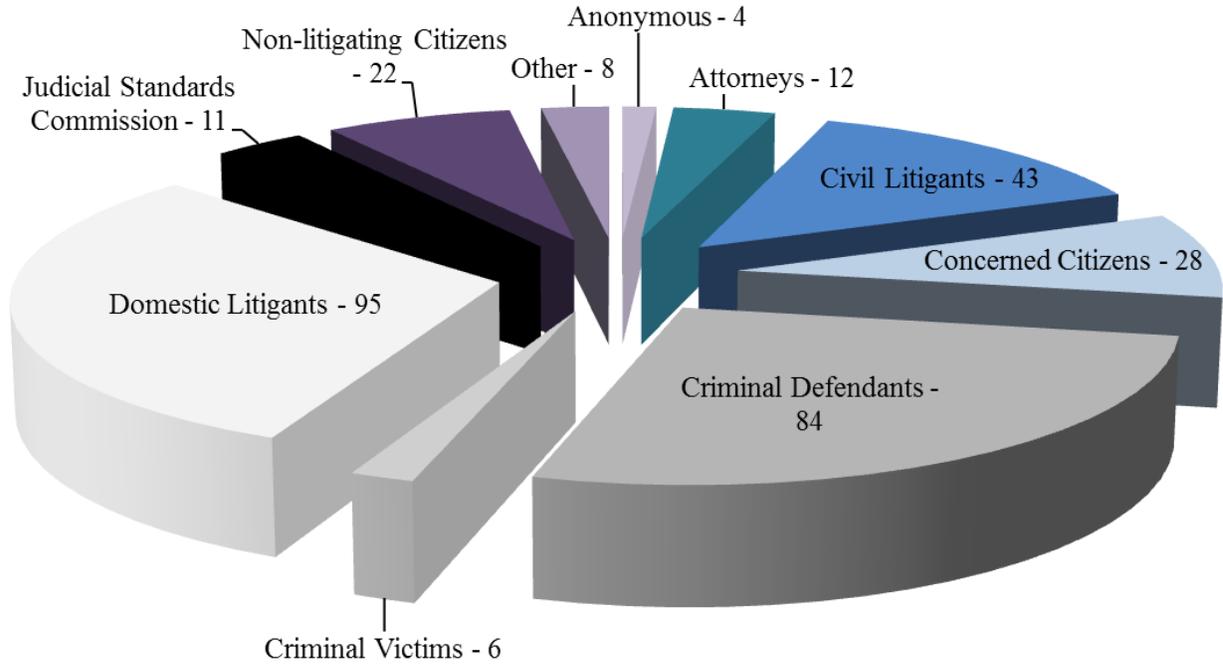
Matters pending 1/1/12	41
2012 Complaints	312
Total Workload	353
Complaints Disposed in 2012	296
Matters Pending 12/31/12	57

As in previous years, the majority of complaints were terminated by the Commission after initial review. Of the 296 complaints disposed of during the year, 260 were dismissed after initial review, 4 were dismissed after initial review with a letter of caution, 20 were dismissed after formal investigations, and 10 were dismissed after a formal investigation with a letter of caution. Two public reprimands were ordered by the Commission. In 2012 the Supreme Court of North Carolina entered orders of suspension and censure in 2 matters pursuant to recommendations filed by the Commission with the Court in 2011.

### COMPLAINT DISPOSITION 2012

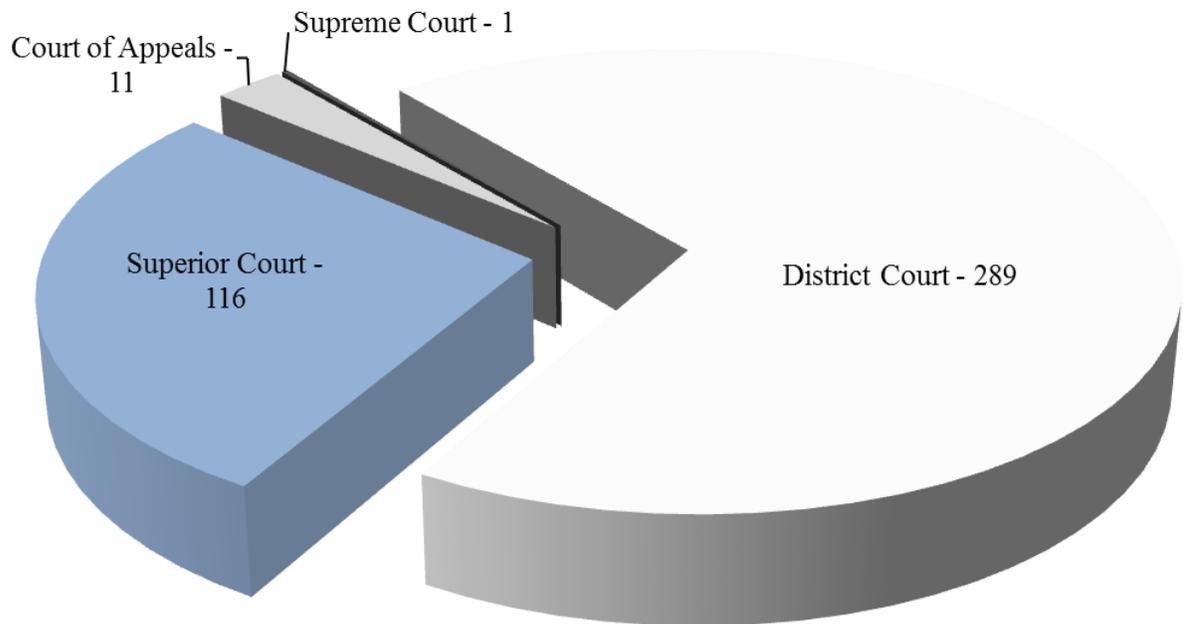


### SOURCES OF COMPLAINTS



Some complaints were provided by more than one complainant.

### CATEGORIES OF RESPONDENT JUDGES



Some complaints named more than one judge or justice.

**COMPLAINT ALLEGATIONS**

Abuse of Power	88
Bias	106
Campaign conduct	3
Conflict of Interest	18
Criminal Conduct	3
Delay	43
Demeanor	68
Denied Fair Hearing	41
Disability	2
Ex Parte Communication	29
Failed Administrative Duty	1
Fraud/Corruption	10
Inappropriate Comments	36
Legal/Procedural Error	229
Other	6
Prestige Misuse	7
<b>TOTAL</b>	<b>690</b>

Some complaints contained more than one allegation.

**FIVE YEAR COMPARATIVE ANALYSIS**

Year	Pending from Previous Years	New	Pending at Year End	Dismissed After Initial Review	Formal Investigation Ordered	Dismissed After Formal Investigation	Private Letter of Caution	Public Reprimand	Statement of Charges Filed	Stipulated Dismissal	Hearing Conducted	Dismissed After Hearing	Recommendation For Discipline Filed
2012	41	312	57	260	30	20	14	2	0	0	0	0	0
2011	22	282	41	241	20	9	9 $\neq$	3	2	0	2	0	2
2010	25	241	22	220	21	12	7	1	0	1(4) $\pm$	0	0	0
2009	47	279	25	259	25	19	11	4	3(8)	2(3)*	2(4)	1	1(3)
2008	37	306	47	257	33	11	22	3	5	0	3	3	1
Total		1420		1237	129	71	54	13	10	3	6	4	4
Avg		284		247.4	25.8	14.2	10.8	2.6	2	0.6	1.2	0.8	0.8

*number in ( ) indicates total number of complaints addressed*

*\* dismissed due to death of the respondent judge*

*$\pm$  dismissed due to removal of the respondent judge*

*$\neq$  a letter of caution was issued in one matter, while other issues remained under investigation*

## APPENDIX A

**PAST AND PRESENT MEMBERS**  
**OF THE**  
**JUDICIAL STANDARDS COMMISSION**

**Judges Appointed by the Chief Justice**

**Court of Appeals**

Hon. Walter E. Brock  
 Hon. Edward B. Clark  
 Hon. Gerald Arnold  
 Hon. Clifton E. Johnson  
 Hon. Sidney S. Eagles, Jr.  
 Hon. Jack L. Cozort  
 Hon. John B. Lewis, Jr.  
 Hon. John C. Martin \*

**Superior Court**

Hon. George M. Fountain  
 Hon. W. Douglas Albright  
 Hon. James M. Long  
 Hon. Robert D. Lewis  
 Hon. Marvin K. Gray  
 Hon. James L. Baker, Jr.  
 Hon. Richard D. Boner  
 Hon. Paul L. Jones  
 Hon. Tanya T. Wallace \*  
 Hon. Cy A. Grant \*

**District Court**

Hon. E. D. Kuykendall, Jr.  
 Hon. C. Walter Allen  
 Hon. L. T. Hammond, Jr.  
 Hon. W. S. Harris, Jr.  
 Hon. A. Elizabeth Keever  
 Hon. Joyce A. Hamilton  
 Hon. Tanya T. Wallace  
 Hon. Rebecca B. Knight  
 Hon. Alexander Lyerly \*  
 Hon. Rebecca Blackmore \*

**Attorneys Elected by the State Bar Council**

Mr. Emerson T. Sanders  
 Mr. Harold K. Bennett  
 Mr. Robert G. Sanders  
 Mr. Jerome B. Clark, Jr.  
 Mr. E. K. Powe  
 Mr. Rivers D. Johnson, Jr.  
 Mr. Louis J. Fisher, Jr.  
 Mr. William K. Davis  
 Mr. Z. Creighton Brinson  
 Mr. Charles M. Davis  
 Mr. Ronald Barbee  
 Mr. William O. King  
 Mr. Steven Michael  
 Mr. Dudley Humphrey  
 Mr. L.P. Hornthal, Jr. \*  
 Mr. Edward T. Hinson, Jr. \*  
 Mr. William H. Jones, Jr. \*  
 Mr. Fred H. Moody, Jr. \*

\* *current member*

**Citizens Appointed by the Governor**

Mr. Marvin B. Koonce, Jr.  
 Mrs. George L. Hundley  
 Ms. N. Susan Whittington  
 Mrs. Veatrice C. Davis  
 Ms. Pamela S. Gaither  
 Mr. Albert E. Partridge, Jr.  
 Mrs. Margaret H. Almond  
 Mr. Melvin C. Swann, Jr.  
 Mr. Roland W. Leary  
 Mr. James L. Mebane  
 Mr. T. Ray Warren  
 Mrs. Linda Brown Douglas  
 Mr. Arthur B. Schools, Jr. \*  
 Ms. Lorraine Stephens \*

**Citizens Appointed by the General Assembly**

Hon. Todd W. Tilley  
 Mr. R. Wayne Troutman \*  
 Mr. Gregory H. Greene \*

## APPENDIX B

**SUPREME COURT OPINIONS**  
**REGARDING RECOMMENDATIONS OF THE**  
**JUDICIAL STANDARDS COMMISSION**

*In re Crutchfield*, 289 N.C. 597, 223 S.E.2d 822 (1975)  
*In re Edens*, 290 N.C. 299, 226 S.E.2d 5 (1976)  
*In re Stuhl*, 292 N.C. 379, 233 S.E.2d 562 (1977)  
*In re Nowell*, 293 N.C. 235, 237 S.E.2d 246 (1977)  
*In re Hardy*, 294 N.C. 90, 240 S.E.2d 367 (1978)  
*In re Martin*, 295 N.C. 291, 245 S.E.2d 766 (1978)  
*In re Peoples*, 296 N.C. 109, 250 S.E.2d 890 (1978)  
*In re Martin* 302 N.C. 299, 275 S.E.2d 412 (1981)  
*In re Hunt*, 308 N.C. 328, 302 S.E.2d 235 (1983)  
*In re Kivett*, 309 N.C. 635, 309 S.E.2d 422 (1983)  
*In re Wright*, 313 N.C. 495, 329 S.E.2d 668 (1985)  
*In re Griffin*, 320 N.C. 163, 357 S.E.2d 682 (1987)  
*In re Bullock*, 324 N.C. 320, 377 S.E.2d 743 (1989)  
*In re Hair*, 324 N.C. 324, 377 S.E.2d 749 (1989)  
*In re Greene*, 328 N.C. 639, 403 S.E.2d 257 (1991)  
*In re Bullock*, 328 N.C. 712, 403 S.E.2d 264 (1991)  
*In re Sherrill*, 328 N.C. 719, 403 S.E.2d 255 (1991)  
*In re Harrell*, 331 N.C. 105, 414 S.E.2d 36 (1992)  
*In re Martin*, 333 N.C. 242, 424 S.E.2d 118 (1993)  
*In re Bissell*, 333 N.C. 766, 429 S.E.2d 731 (1993)  
*In re Hair*, 335 N.C. 150, 436 S.E.2d 128 (1993)  
*In re Cornelius*, 335 N.C. 198, 436 S.E.2d 836 (1993)  
*In re Bullock*, 336 N.C. 586, 444 S.E.2d 299 (1994)  
*In re Leonard*, 339 N.C. 596, 453 S.E.2d 521 (1995)  
*In re Martin*, 340 N.C. 248, 456 S.E.2d 517 (1995)  
*In re Greene*, 340 N.C. 251, 456 S.E.2d 516 (1995)  
*In re Ammons*, 344 N.C. 195, 473 S.E.2d 326 (1996)  
*In re Fuller*, 345 N.C. 157, 478 S.E.2d 641 (1996)  
*In re Martin*, 345 N.C. 167, 478 S.E.2d 186 (1996)  
*In re Renfer*, 345 N.C. 632, 482 S.E.2d 540 (1997)  
*In re Renfer*, 347 N.C. 382, 493 S.E.2d 434 (1997)

*In re Tucker*, 348 N.C. 677, 501 S.E.2d 67 (1998)  
*In re Tucker*, 350 N.C. 649, 516 S.E.2d 593 (1999)  
*In re Brown*, 351 N.C. 601, 527 S.E.2d 651 (2000)  
*In re Hayes*, 353 N.C. 511, 546 S.E.2d 376 (2001)  
*In re Stephenson*, 354 N.C. 201, 552 S.E.2d 137 (2001)  
*In re Brown*, 356 N.C. 278, 570 S.E.2d 102 (2002)  
*In re Hayes*, 356 N.C. 389, 584 S.E.2d 260 (2002)  
*In re Hill*, 357 N.C. 559, 591 S.E.2d 859 (2003)  
*In re Brown*, 358 N.C. 711, 599 S.E.2d 502 (2004)  
*In re Braswell*, 358 N.C. 721, 600 S.E.2d 849 (2004)  
*In re Hill*, 359 N.C. 308; 609 S.E.2d 221 (2005)  
*In re Harrison*, 359 N.C. 415; 611 S.E.2d 834 (2005)  
*In re Daisy*, 359 N.C. 622, 622 S.E.2d 529 (2005)  
*In re Ballance*, 361 N.C. 338, 643 S.E.2d 584 (2007)  
*In re Royster*, 361 N.C. 560, 648 S.E.2d 837 (2007)  
*In re Allen*, 362 N.C. 73, 653 S.E.2d 423 (2007)  
*In re Badgett*, 362 N.C. 202, 657 S.E.2d 346 (2008)  
*In re Badgett*, 362 N.C. 482, 666 S.E.2d 743 (2008)  
*In re Belk*, 364 N.C. 114, 691 S.E.2d 685 (2010)  
*In re Hartsfield*, \_\_\_ N.C. \_\_\_, 722 S.E.2d 496 (2012)  
*In re Totten*, \_\_\_ N.C. \_\_\_, 722 S.E.2d 783 (2012)